

PRA Exemptions Reviewed in 2013

Cite	Description	DRAFT (not approved) recommendation
<i>I. Natural Resources/Historic Preservation</i>		
1 V.S.A. § 317(c)(20) and 22 V.S.A. § 761	Information regarding location of archaeological sites	Correct error in cross-reference; otherwise retain exemption in existing form.
10 V.S.A. § 101	Mineral information submitted to the Division of Geology and Mineral Services by the mineral industry, if the industry requests confidentiality	ANR's oral and written testimony was that this exemption can be repealed if the general trade secret exemption, 1 V.S.A. § 317(c)(9), is amended as ANR has recommended.
10 V.S.A. § 123	Vermont Geographic Information Service; individual identifiers of persons supplying data	Retain exemption in existing form.
10 V.S.A. § 563	Air contaminant source reports submitted to the Agency of Natural Resources (ANR) that relate to production, sales figures, or production processes, the disclosure of which would adversely affect the competitive position of the source owner or operator	ANR's oral and written testimony was that this exemption should be retained in existing form; goes beyond trade secrets.
10 V.S.A. § 1259(b)	Reports submitted to ANR as part of a water pollution control permit when disclosure would divulge a trade secret	ANR's oral and written testimony was that this exemption can be repealed if the general trade secret exemption, 1 V.S.A. § 317(c)(9), is amended as ANR has recommended.
10 V.S.A. § 5410	All information regarding the location of endangered species sites	Retain exemption in existing form.
10 V.S.A. § 6628(a)	Toxic use reduction and hazardous waste reduction plans	ANR's oral and written testimony was that this exemption can be repealed if the general trade secret exemption, 1 V.S.A. § 317(c)(9), is amended as ANR has recommended.
10 V.S.A. § 6632	Trade secrets included in hazardous waste generator reports submitted to ANR	ANR's oral and written testimony was that this exemption can be repealed if the general trade secret exemption, 1 V.S.A. § 317(c)(9), is amended as ANR has recommended.
10 V.S.A. § 7153	Sales data and other confidential business information submitted to ANR by manufacturers of mercury-containing lamps	ANR's written testimony was that this exemption should be retained in existing form; at the 10/4/13 meeting, indicated that if 1 V.S.A. § 317(c)(9) was broadened to extend to sales data, then might be able to recommend repealing it.
29 V.S.A. § 505(b)(2) 29 V.S.A. § 542 29 V.S.A. § 543(c)	§ 505 - Oil and gas well logs, directional surveys, and reports § 542 - Oil or natural gas well operator geologic well report § 543 - Operator identifying information in oil	ANR stated that it would work to rewrite these exemptions; subsequently stated that they could be eliminated.

Cite	Description	DRAFT (not approved) recommendation
	or natural gas well reports	
II. Transportation/motor vehicles		
5 V.S.A. § 3452	Information provided by railroads to the Agency of Transportation (AOT) or the Transportation Board	?? See Dunleavy response.
9 V.S.A. § 4100b	Pre-hearing conference discussions of parties before the Transportation Board	Consistent with C.V.R. 14-010-020 § 14 (“Pre-hearing procedure”), amend exemption to clarify that “records concerning settlement” shall remain confidential.
19 V.S.A. § 2603	Financial information, trade secrets, or other business information customarily regarded as confidential when submitted to AOT as part of an application for qualification for design-build contracts	Retain exemption in existing form.
19 V.S.A. § 2604	Conceptual submissions and responses in application for design-build contracts	Retain exemption in existing form.
19 V.S.A § 2606(a)	Technical and price proposals during evaluation of design-build contract applications	Retain exemption in existing form.
23 V.S.A. § 104	Motor vehicle records; photo images of person	Recommend clarifying who is an authorized recipient under 23 V.S.A. § 104(d), and amending subsec. (a) to reference the obligations of the Drivers Privacy Protection Act, 18 U.S.C. § 2721 <i>et seq.</i>
23 V.S.A. § 707	Driver training school records of instructor’s name, instruction license number, type of instruction given, and how much instruction was given	Exemption is overbroad: recommend that exemption be amended to state that only individually identifying information about students is confidential.
III. Agriculture		
6 V.S.A. § 61	Identity of persons, households, or businesses providing agricultural information to the Agency of Agriculture, Food and Markets	Recommend be folded into consolidated new exemption in 6 V.S.A. ch. 1.
6 V.S.A. § 484	Records acquired by the Agency of Agriculture, Food and Markets regarding the purchase and sale of maple products	Recommend be folded into consolidated new exemption in 6 V.S.A. ch. 1.
6 V.S.A. § 1039	Information acquired by the Agency of Agriculture, Food and Markets regarding pesticide trade secrets or financial information	Recommend be folded into consolidated new exemption in 6 V.S.A. ch. 1.
6 V.S.A. § 1815	Information acquired by the Northeast Dairy Compact Commission and its staff	Retain exemption in existing form.
6 V.S.A. § 2766	Any identifying information acquired by the Agency of Agriculture, Food and Markets or Attorney General regarding rbST inspection and reporting	Recommend be folded into consolidated new exemption in 6 V.S.A. ch. 1.

Cite	Description	DRAFT (not approved) recommendation
6 V.S.A. § 2936(b)	Reports from milk handlers acquired by the Vermont Milk Commission	Recommend be folded into consolidated exemption in 6 V.S.A. ch. 1.
IV. Professions and Occupations/Labor		
21 V.S.A. § 710(c)	Name or contact information of an individual who has alleged to the Department of Labor (DOL) that an employer has made a false statement or misclassified an employee	(?) Retain exemption in existing form.
21 V.S.A. § 1035(c)	Financial information submitted to DOL by employee leasing companies	(?) Retain exemption in existing form.
21 V.S.A. § 1314	Information obtained by the DOL regarding the unemployment benefit rights of an individual	<i>Questions arose regarding:</i> § 1314(e)(1) (disclosure to universities for research purposes) § 1314(e)(2) (disclosure of wage or other information material to the location of an “identified individual”, the individual's assets, or the individual's place of employment)
26 V.S.A. § 82	Confidential information obtained by a public accountant in the course of a professional engagement	Remove from the list of exemptions; not applicable to a public agency.
26 V.S.A. § 1318	Disciplinary complaints, proceedings, or records of the Board of Medical Practice when not required to be released by statute; investigatory files of the Board which have not resulted in a charge of unprofessional conduct; and work product of Board attorney	Retain exemption in existing form.
26 V.S.A. § 1353(6)	The results of a mental, physical, or medical knowledge and skill evaluation that the Board of Medical Practice requires a licensee to complete	Retain exemption in existing form.
26 V.S.A. § 1443	Proceedings, reports, and records of health services peer review committees	Retain exemption in existing form.
26 V.S.A. § 4190(b)	Written comments related to peer reviews required by rules governing licensed midwives	Retain exemption in existing form.
V. Trade Secrets		
1 V.S.A. § 317(c)(9)	Trade secrets	Amend to clarify that the exemption extends to trade secrets or “confidential business records or information”, and that exemption may apply even if known to individuals outside the commercial concern.
VI. DFR		
1 V.S.A.	Information submitted to the Department of	Amend to substitute “person” for

Cite	Description	DRAFT (not approved) recommendation
§ 317(c)(26)	Financial Regulation (DFR) in dispute regarding a DFR regulated entity	"individual." Also see Act 23 bill recommendation for consolidation with 1 V.S.A. § 317(c)(27).
1 V.S.A. § 317(c)(36)	Anti-fraud plans	Amend by striking reference to DFR. Also see Act 23 language.
8 V.S.A. § 15(b)	Advisory interpretations	Retain exemption in existing form.
8 V.S.A. § 22	Information acquired by DFR from other agencies and jurisdictions	Question arose regarding whether this section is identical to section 3577(l).
8 V.S.A. § 23:	Records of investigations of banks and financial institutions licensed by DFR and all records and reports of DFR examinations.	Retain exemption in existing form.
8 V.S.A. § 2530(j)	Information obtained during an examination or investigation by DFR of persons engaged in, or applying for a license to engage in, money transmission, check cashing, or currency exchange.	Remove from list of exemptions; not separate from 8 V.S.A. § 23.
8 V.S.A. § 3561	All market conduct annual statements and other information filed by insurance companies with DFR	Retain exemption in existing form.
8 V.S.A. § 3574(d)	DFR examination reports of insurance company	Retain exemption in existing form.
8 V.S.A. § 3577	Actuarial reports, actuarial opinion summaries, work papers, and any other information provided to DFR in connection with the actuarial report, work papers, or actuarial opinion summary	Follow-up: asked me to compare (1)(3) with 8 V.S.A. § 22. They largely overlap, except that: (1) § 22 is broader in that it specifically mentions sharing with "the North American Securities Administrators Association, self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3 and 78q-1, other self-regulatory organizations and their affiliates or subsidiaries"; and (2) (1)(3)(A) only allows sharing with other jurisdictions and agencies that have "legal authority to maintain confidentiality."
8 V.S.A. § 3588	Insurer's Own Risk and Solvency Assessment (ORSA) summary report filed with DFR	Retain exemption in existing form.
8 V.S.A. § 3683(a)(2)	Notices of divestitures, acquisitions, and mergers related to domestic insurers	DFR agrees with the Committee that this provision is unclear, and stated that it would "review this section and propose technical corrections for clarity."
8 V.S.A. § 3683a(c)	Preacquisition notification of any	Retain exemption in existing form.

Cite	Description	DRAFT (not approved) recommendation
	acquisition in which there is a change in control of an insurer licensed to do business in this state, but not domiciled in this state.	
8 V.S.A. § 3687	Records obtained in the course of an examination or investigation of an insurance holding company system; registration statements and enterprise risk report of insurers part of a holding company system; prior notification of certain transactions involving a domestic insurer and a person in holding company system	DFR agrees with the Committee that the cross-reference to subdivisions 3683(b)(12) and (13) is unclear and stated that it would “review and propose technical corrections as needed for clarity.”
8 V.S.A. § 3839	Trade secret information included in a life settlement provider’s annual statement to DFR.	Amend to add cross-reference to 1 V.S.A. § 317(c)(9).
8 V.S.A. § 3840	Investigation and examination reports related to financial condition or market conduct of life settlement provider	Retain exemption in existing form.
8 V.S.A. § 4488(5)	Notice to DFR from a fraternal benefits society of termination of appointment of an insurance agent	Amend to strike the phrase “deemed a privileged communication” and insert in lieu thereof “confidential and privileged and treated as provided in subsection 4813m(f) of this title.”
8 V.S.A. § 4813m(f)	Record acquired by DFR that is furnished by an insurer, producer, or employee when obtained by DFR in an investigation of an insurer’s termination of the appointment, employment, contract, or other business relationship with a person licensed as an insurance producer	Retain exemption in existing form.
8 V.S.A. § 6002(c)	Information submitted to DFR in captive insurance company applications for licenses	Retain exemption in existing form.
8 V.S.A. § 6008(c)	Any reports, information, or documents acquired by DFR in the course of an examination of captive insurance company	Retain exemption in existing form.
8 V.S.A. § 6048o	Records of special purpose financial captive insurance company obtained in the course of an examination	Retain exemption in existing form.
8 V.S.A. § 6052	Proprietary information submitted to DFR by risk retention groups	Retain exemption in existing form.
8 V.S.A. § 6074	Reports, work papers, recorded information, and documents produced or acquired by DFR in the course of the examination of a risk retention managing general agent	Retain exemption in existing form.
8 V.S.A. § 7041(e)	Records produced in the course of DFR	Amend to clarify that this section also

Cite	Description	DRAFT (not approved) recommendation
	delinquency proceeding of domestic insurer	pertains to records of hearings.
8 V.S.A. § 7043	Records related to insurance delinquency proceedings	Retain exemption in existing form.
8 V.S.A. § 8308	Risk-based capital reports and risk based capital plans of insurers filed with DFR	Retain exemption in existing form.
9 V.S.A. § 5607: Securities documents acquired by DFR, including records related to audits, inspections, and trade secrets		Retain exemption in existing form.